

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
14 AUG 18 PM 3:24
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

IN THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

RICHARD L. KELLY #860033

Plaintiff(s)

(Full name(s). Do not use *et. al.*)

v.

MIKE PERSON, M.D.

MS. MANDIP BARTELS, M.D.

MIKE MITCHEFF, M.D.

DUSHAWN ZATECKY, SUPT.

Defendant(s).

(Enter above the full name of ALL defendants
in this action. Do not use "*et al.*")

1 : 14 -cv- 1364 SEB -DML
Cause No.
(To be supplied by the Court)

CIVIL RIGHTS COMPLAINT

I. PARTIES

1. Plaintiff's Information:

Name and Prisoner Number of Plaintiff: RICHARD KELLY #860033

Present Place of Confinement or Mailing Address: 4490 W. REFORMATORY RD.,

PENDLETON, IN. 46064

2. Defendant's Information: (NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.)

Name of Defendant 1: MIKE PERSON (PERSON)

Title (If applicable): MEDICAL DOCTOR

Address of Defendant: CORIZON HEALTH, 9245 N. MERIDIAN AVE.,

STE. 120, INDIANAPOLIS, IN. 46260

Name of Defendant 2: MS. MANDIP BARTELS (BARTELS)

Title (If applicable): MEDICAL DOCTOR, REGIONAL MEDICAL DIRECTOR

Address of Defendant: CORIZON HEALTH, 9245 N. MERIDIAN AVE., STE. 120,
INDIANAPOLIS, IN. 46260

Title (If applicable): _____

Address of Defendant: _____

Name of Defendant 3: MIKE MITCHEFF (MITCHEFF)

Title (If applicable): MEDICAL DOCTOR, REGIONAL MEDICAL DOCTOR

Address of Defendant: CORIZON HEALTH, 9245 N. MERIDIAN AVE., STE. 120,
INDIANAPOLIS, IN. 46260

Name of Defendant 4: DUSHAUN ZATECKY (ZATECKY)

Title (If applicable): SUPERINTENDENT INDIANA REFORMATORY

Address of Defendant: 4490 W. REFORMATORY RD., PENDLETON,
INDIANA, 46064

II. JURISDICTION

Jurisdiction is invoked pursuant to 28 U.S.C. § 1331. (If you wish to assert jurisdiction under additional statutes, you may fill in the title and section below.)

_____ U.S.C. § _____

_____ U.S.C. § _____

III. BASIS FOR CLAIMS

Check any Applicable Item(s):

- ☒ Complaint Under the Civil Rights Act, 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Complaint Under *Bivens v Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☐ Other (cite statute, if known) _____

IV. CLAIMS

BRIEFLY state the background of your case.

FOR SIX MONTHS PERSON (REFUSES) TO TREAT KELLY FOR HIS LUMBAR & CERVICAL SPINE
DAMAGE APPROPRIATELY, AS A DIRECT RESULT KELLY SUFFERS THRU DAILY EXCRUCIATING
PHYSICAL PAIN & EXTREME MENTAL & EMOTIONAL DISTRESS. BARTELS, MITCHEFF, CREATED
A MEDICATION FORMULARY & AN APPROVAL SEEKING PROCEDURE & THREATEN PERSON
WITH TERMINATION OF EMPLOYMENT IF HE DOES NOT USE SAID PROCEDURES & ABIDE
BY ALL DECISIONS OF BARTELS, MITCHEFF. ZATECKY REFUSES TO ENSURE THAT ALL
SPECIALIST APPOINTMENTS OUTSIDE OF THE FACILITY ARE PROVIDED IN A TIMELY
FASHION. PERSON (REFUSES) TO TREAT KELLY APPROPRIATELY FOR HIS SEVERE NERVE
DAMAGE. AT ALL TIME HEREIN STATED ALL DEFENDANTS ACTED UNDER COLOR OF
STATE LAW. (PLEASE SEE ENCLOSED AFFIDAVIT BY KELLY FOR GREATER DETAIL.)

Claim I: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument): FROM 2.7.14 THRU 7.14.14, PERSON REFUSES

TO SEND KELLY TO A NEUROSURGEN, OR TO PROVIDE THE LEVEL OF MEDICATION PRESCRIBED
BY KELLY'S PREVIOUS NEUROSURGEN, TO TREAT HIS LUMBAR & CERVICAL SPINE DAMAGE & TO
COMBAT HIS DAILY SUFFERING. PERSON'S ACTIONS AMOUNT TO DELIBERATE INDIFFERENCE
IN VIOLATION OF THE 14TH AMEND. OF THE U.S.C.

Claim II: BARTELS, MITCHEFF, HAVE NEVER PHYSICALLY MET OR TREATED KELLY; FROM 6.2.14

THRU 6.10.14, THEY ORDERED PERSON TO STOP KELLYS PAIN MEDICATIONS ULTRAM & BACLOFIN,

IN ORDER TO INTENTIONALLY INFLICT UNDUH PAIN & SUFFERING ON HIM. IT IS ILLEGAL FOR

BARTEL, MITCHEFF, TO INTERFERE, STOP, DENY, KELLY ANY MEDICAL TREATMENT SO EVER.

BARTEL, MITCHEFF, HAVE IMPLIMENTED A POLICY & PROCEDURE FORCING PERSON TO SEEK THEIR

APPROVAL FOR ANY NON-FORMULARY MED & ALL SPECIALIST TREATMENT & THEY USE SUCH TO DENY
KELLY THE APPROPRIATE MEDICAL TREATMENT. SAID ACTIONS AMOUNT TO DELIBERATE
INDIFFERENCE IN VIOLATION OF THE EIGHTH AMEND. OF THE U.S.C.

Claim III: ZATECKY REFUSES TO ENSURE THAT ALL SPECIALIST APPOINTMENTS OUTSIDE OF THE
FACILITY ARE CONDUCTED IN A TIMELY FASHION, IN MARCH 2014 PERSON PRESCRIBED AN EMG NERVE

CONDUCTION TEST OF KELLY, ZATECKY PROVIDED SAID APPOINTMENT ON 5.29.14, ZATECKY SHOULD
HAVE, VERY EASILY COULD HAVE PROVIDED SUCH THE DAY OF, FOLLOWING DAY, OR AT LEAST

WEEK OF SAID PRESCRIPTION BY PERSON, SAID TEST RESULT INDICATED SEVERE NERVE DAMAGE
TO ALL LIMBS "FROM HEAD TO TOE" THE NEUROLOGIST THAT TREATED KELLY PRESCRIBED AN

INCREASE IN KELLYS PAIN MED, KELLY WAS FORCED TO SUFFER FOR THREE MONTHS WHILE
AWAITING SAID EMG NCS.

SAID ACTIONS AMOUNT TO DELIBERATE INDIFFERENCE IN VIOLATION OF THE
EIGHTH AMEND. OF THE U.S.C.

V. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment?

☒ Yes ☐ No

If your answer is "Yes," describe each lawsuit. If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "V. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF."

- a. Parties to previous lawsuit:

Plaintiff(s): RICHARD KELLY 860033, I DONT RECALL OTHER PLAINTIFFS OR ALL
DEFENDANTS, I FILLED ONE CIVIL SUIT IN 2010 & OTHER SUITS 19 OR 20 YEARS

Defendant(s): AGO IN BOTH SOUTHERN & NORTHERN DISTRICTS OF INDIANA. I DO
HAVE ONE SUIT PENDING RIGHT NOW IN SOUTH BEND.

- b. Name and location of court and docket number: KELLY V. MITCHEFF,
CAUSE # 3:13 CV 924, NORTHERN DISTRICT IND.

CLAIM IV: PERSON HAS, BETWEEN 2.3.14 THRU 7.14.14, REFUSED TO PROVIDE THE APPROPRIATE LEVEL OF CARE & TREATMENT ASSOCIATED WITH THE SEVERE NEUROLOGICAL DISORDER THAT KELLY SUFFERS FROM. PERSON IS FULLY COGNIZANT OF THE ADVANCED STAGE OF SAID AILMENT AS IT RELATES TO KELLY & OF ALL OF THE COMMON SYMPTOMS ASSOCIATED WITH SUCH THAT KELLY SUFFERS FROM.

THE SYMPTOMS THAT KELLY SUFFERS FROM ARE: BREAKTHROUGH PAIN EVERY SINGLE DAY & NIGHT "STABING & BURNING PAIN", EXCRUCIATING CLUSTER HEADACHES THAT CAN & DO LAST FROM ONE HOUR TO THREE DAYS, SEVERE MUSCLE SPASMS & CRAMPING THROUGHOUT KELLYS BODY FROM HIS FACE, FOREARMS, HANDS, TORSO, INTESTINAL MUSCLES, THIGHS, CALF MUSCLES, BOWEL & BLADDER INCONTINENCE, GASTROINTESTINAL PAIN & CRAMPING EVERY AFTERNOON & EVENING, SEVERE HEAT INTOLERANCE, AT TEMPERATURES OVER 80 DEGREES & IN HOT SHOWERS KELLYS FOREARMS, HANDS, CALES, FEET FEEL AS THOUGH THEY ARE LITERALLY COOKING FROM THE INSIDE OUT, "EXCRUCIATING PAIN!"

SAID ACTIONS BY PERSON AMOUNT TO DELIBERATE INDIFFERENCE IN VIOLATION OF THE EIGHTH AMEND. OF THE U.S.C. .

[REDACTED]

- c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?): PENDING
- d. Issues raised: MEDICAL, DELIBERATE INDIFFERENCE
- e. Approximate date of filing lawsuit: MARCH 2013
- f. Approximate date of disposition: PENDING
2. I have previously exhausted available administrative remedies regarding the events or acts complained of in Part II of this complaint ☒ Yes ☐ No

If your answer is "Yes," briefly describe how relief was sought and the result:

I FILED THE FACILITY LEVEL I & LEVEL II, GRIEVANCE & GRIEVANCE APPEALS &
THEN CONTACTED INDIANA OMBUDSMAN.

(PLEASE SEE COPIES OF SUCH ENCLOSED HEREIN.)

VI. PREVIOUSLY DISMISSED ACTION OR APPEALS

1. If you are proceeding under 28 U.S.C. § 1915, please list each civil action or appeal you have brought in any court of the United States while you were incarcerated or detained in any facility, that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Please describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a blank sheet which you should label "VI. PREVIOUSLY DISMISSED ACTIONS OR APPEALS."

- a. Parties to previous lawsuit:

Plaintiff(s): N/A

Defendant(s): _____

- b. Name and location of court and docket number: _____

- c. Ground for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

d. Approximate date of filing lawsuit: _____

e. Approximate date of disposition: _____

VII. REQUEST FOR RELIEF

I request the following relief: ① DECLARE SAID DEFENDANT ACTIONS UNCONSTITUTIONAL.

② ISSUE CIVIL ARREST WARRANT FOR MIKE PERSON.

③ DECLATORY RELIEF DEEMED APPROPRIATE BY THE COURT.

④ MONEYTARY DAMAGES COMMENSURATE WITH MY PHYSICAL, MENTAL & EMOTIONAL
SUFFERING AS OUTLINED HEREIN.

⑤ ATTORNEY FEE'S.

Richard Kell
Plaintiff's Original Signature

Date: 8.14.14, 2014

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate.

Executed at INDIANA REFORMATORY on 8.14.14
(location) (date)

Richard Kell
Plaintiff's Original Signature

Plaintiff demands a trial by jury: ☒ Yes ☐ No